

ORDINANCE 1562

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, RELATING TO TRANSPORTATION IMPACT FEES; AMENDING SECTIONS 17.38.020, 17.38.030, 17.38.040 AND 17.38.120 OF THE NORTH BEND MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of North Bend (the “Council”) finds that development activity in the City of North Bend (the “City”) will create additional demand and need for public facilities such as roads, streets, parks, schools, recreation, and open spaces; and

WHEREAS, the City is authorized by RCW 82.02.050 – .090 to require new growth and development within the City to pay impact fees representing the proportionate share of the cost of new facilities that are reasonably related to and that reasonably benefit the new development; and

WHEREAS, Section 17.38.030 of the North Bend Municipal Code assesses transportation impact fees for any development activity within the City; and

WHEREAS, pursuant to RCW 82.02.050, impact fees may be collected and spent for system improvements to public facilities that are included within a capital facilities element of a comprehensive plan; and

WHEREAS, the Capital Facilities Element of the North Bend Comprehensive Plan includes the City’s Six-Year Transportation Improvement Plan for 2016–2021 (the “TIP”); and

WHEREAS, the City’s travel demand model estimates growth in the City over the next twenty years to include 1,200 new housing units and 720 new jobs, and the TIP includes at least fifteen projects that provide capacity to accommodate that future growth; and

WHEREAS, RCW 82.02.060(8) authorizes the City to impose impact fees for system improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed system improvements; and

WHEREAS, in developing the calculation formula for the impact fees imposed by this ordinance for system improvements to public streets and roads, the City has provided adjustments for past and future taxes paid or to be paid by the new development which are earmarked or proratable to the same new public facilities that will serve the new development; and

WHEREAS, the City has conducted extensive research documenting the procedures for measuring the impact of new developments on transportation facilities, and has prepared technical reports which serve as the basis for the actions taken by the Council; and

WHEREAS, RCW 82.02.050(2) requires that the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds; and

WHEREAS, the City has fully considered and included in the project list possible financing for system improvements including without limitation Puget Sound Regional Council grants, Community Development Block grants, Transportation Improvement Board grants, the City's General Fund, and other sources of public funds; and

WHEREAS, the City has found that other sources of state and federal transportation grant funding continues to reduce as both the state and federal governments struggle with budget deficits; and

WHEREAS, Council finds it appropriate to amend the Taxes, Rates & Fees Schedule, last amended by Ordinance 1551, to increase transportation impact fees as supported by the Transportation Impact Fee Rate Calculations for City of North Bend," prepared by Henderson, Young and Company dated October 15, 2013, as amended by Impact Fee Memorandum dated September 18, 2015, prepared by Fehr & Peers Associates, Inc.; and

WHEREAS, the City is interested in fostering and enabling small business investment in its commercial areas and promoting the development of certain uses through reductions of impact fees applied to certain uses, and changes of use, as further described below; and

WHEREAS, consistent with Goal 2 of the Downtown Master Plan, the City wishes to inspire new business investment in downtown commercial areas in order to improve real estate values, occupancy levels, employment opportunities and consumer activity; and

WHEREAS, consistent with Goal 6 of the Downtown Master Plan, the City wishes to promote economic growth and new business, while maintaining North Bend's historic and small town character; and

WHEREAS, consistent with Goal 1 of the Economic Development Element of the Comprehensive Plan, the City wishes to advance the revitalization of the downtown commercial area as the civic and historic center of the community and stimulate economic development of its underdeveloped and blighted commercial areas; and

WHEREAS, the City wishes to promote pedestrian-oriented businesses within the downtown commercial area such as restaurants, coffee shops and retail to further foster its identity and character as the cultural heart of the City and a core tourist/retail destination; and

WHEREAS, due to the potential mix of residential and commercial uses and proximity of the zone to tourists destination, such as Meadowbrook Farm and the Mt Si Trailhead, the City wishes to promote pedestrian-oriented commercial uses and redevelopment within the Neighborhood Business Zone; and

WHEREAS, consistent with the City's branding efforts focused on recreation and tourism, the City wishes to promote the development of outdoor recreation-related businesses;

WHEREAS, Washington state courts have held that the assessment of transportation impact fees is not a land use control ordinance or development regulation, and therefore is not subject to Chapter 36.70A RCW, the Growth Management Act, and its public participation requirements; and

WHEREAS, public hearings were held on August 18, 2015, and September 1, 2015, and October 6, 2015, and the Council fully considered all public oral and written testimony prior to adoption of this Ordinance; and

WHEREAS, the notice for the public hearing was properly advertised in the City's legal newspaper;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. NBMC 17.38.020, Definitions: North Bend Municipal Code Section 17.38.030 (Definitions) is hereby amended to read as follows:

O. "Rate study" means the "Transportation Impact Fee Rate Calculations for City of North Bend," prepared by Henderson, Young and Company dated October 15, 2013, as amended by Impact Fee Memorandum dated September 18, 2015, prepared by Fehr & Peers Associates, Inc.

Section 2. NBMC 17.38.030, Assessment of Impact Fees, Amended: North Bend Municipal Code Section 17.38.030 (Assessment of impact fees) is hereby amended to read as follows:

17.38.030 Assessment of Impact Fees.

A. Unless exempted pursuant to NBMC 17.38.040, an applicant seeking development approval from the city for any development activity within the city shall pay, and the city shall collect prior to building permit issuance, impact fees calculated by the director according to the rates set forth in NBMC 17.38.120 and the taxes, rates and fees schedule set forth in Ordinance No. 1551 as it may be subsequently amended from time to time. Development activity subject to the impact fees assessed herein shall

include, but is not limited to, the development of residential, commercial, retail, office, and industrial land, and includes the expansion of existing uses that creates a demand for additional public facilities, as well as a change in use that creates a demand for additional public facilities.

B. For a change in use of an existing building or dwelling unit, including any alteration, expansion, replacement or new accessory building, the impact fee shall be the applicable impact fee for the land use category of the new use, less any impact fee previously paid for the land use category of the prior use. If no impact fee was paid for the prior use, the impact fee for the new use shall be reduced by an amount equal to the current impact fee rate for the prior use.

C. For mixed-use developments, impact fees shall be imposed at the applicable rate set forth in NBMC 17.38.120 for each separate type of land use contained in the mixed-use development. For cottage housing no greater than 1,700 square feet in size with two bedrooms or less, impact fees shall be imposed at the applicable rate set forth in NBMC 17.38.120 for condominiums; for cottage housing with more than two bedrooms or more than 1,700 square feet in size, impact fees shall be imposed at the rate for single-family houses.

D. Impact fees shall be paid at the rate in effect at the time the building permit is issued by the city.

E. Applicants that have been awarded credits prior to the submittal of the complete building permit application pursuant to NBMC 17.38.050 shall submit, along with the complete building permit application, a copy of the letter or certificate prepared by the director pursuant to NBMC 17.38.050 setting forth the dollar amount of the credit awarded.

F. *Repealed by Ord. 1485.*

G. The department shall not issue the required building permit or occupancy permit unless and until the impact fees set forth in NBMC 17.38.120 have been paid in the amount that they exceed exemptions or credits provided pursuant to NBMC 17.38.040 or 17.38.050.

H. The service area for impact fees shall be a single citywide service area.

Section 3. NBMC 17.38.040, Exemptions, Amended: North Bend Municipal Code Section 17.38.040 (Exemptions) is hereby amended to read as follows:

17.38.040 Exemptions.

A. The following development activity shall be fully or partially exempt from the requirement to pay impact fees as described below:

1. Alteration of an existing residential structure that does not expand the usable space or add any residential units;
2. Miscellaneous accessory use improvements, including, but not limited to, fences, walls, swimming pools, and signs;
3. Demolition or moving of a structure;
4. Expansion of an existing structure that results in the addition of 100 square feet or less of gross floor area;
5. Replacement of a structure with a new structure of the same size and use at the same site or lot when such replacement occurs within 12 months of the demolition or destruction of the prior structure. Replacement of a structure with a new structure of the same size shall be interpreted to include any structure for which the gross square footage of the building will not be increased by more than 100 square feet;
6. Any development by the city of North Bend;
7. Any change of use of an existing building or tenant space 15,000 square feet or less.
8. A reduction of 89 percent of the total traffic impact fee assessed for any restaurant (non-drive thru) or retail use in the Downtown Commercial zone; and
9. A reduction of 78 percent of the total impact fee assessed for any allowed commercial use within

Downtown Commercial and Neighborhood Business zones; and

10. A reduction of 57 percent of the total impact fee assessed for any allowed commercial use within the Interchange Commercial; Interchange Mixed Use; Employment Park; or Parks, Open Space and Public Facilities zones, or any overlay zones within such zones.

B. The director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section, in any other section, or under other applicable law. Determinations of the director shall be in writing and shall be subject to the appeals procedures set forth in NBMC 17.38.070.

Section 4. NBMC Section 17.38.120, Transportation Impact Fee, Amended: North Bend Municipal Code Chapter 17.38.120 (Transportation Impact Fee) shall be deleted in its entirety and replaced with the following section to be read as follows:

17.38.120 Transportation Impact Fee.

The Transportation Impact Fee rates are generated from the formula for calculating impact fees set forth in the Rate Study, which is incorporated herein by reference. Except as otherwise provided for independent fee calculations in NBMC 17.38.030, exemptions in NBMC 17.38.040, and credits in NBMC 17.38.050, all development activity in the City shall pay the street and/or transportation impact fee based on the trip generation data in the below table applicable to the type of development activity at the rates established by the taxes, rates, and fees schedule adopted by ordinance:

Revised trip generation rate table for NBMC 17.38.120

ITE Code	ITE Land Use Category	Trip Rate (1)	Percent New Trips (2)	Impact Fee Per Unit @			
				Net New Trips Per Unit of Measure		\$10,562.61	per Trip end
110	Light Industrial	0.97	100%	0.97	1,000 sq ft	\$10.25	per square foot
140	Manufacturing	0.73	100%	0.73	1,000 sq ft	\$7.71	per square foot
151	Mini-warehouse	0.26	100%	0.26	1,000 sq ft	\$2.75	per square foot
210	Single family House	1.00	100%	1.00	dwelling	\$10,562.61	per dwelling unit
220	Apartment	0.62	100%	0.62	dwelling	\$6,548.82	per dwelling unit
230	Condominium	0.52	100%	0.52	dwelling	\$5,492.56	per dwelling unit
240	Mobile Home	0.59	100%	0.59	dwelling	\$6,231.94	per dwelling unit
251	Senior Housing -	0.27	100%	0.27	dwelling	\$2,851.90	per dwelling unit

	Detached						
252	Senior Housing - Attached	0.25	100%	0.25	dwelling	\$2,640.65	per dwelling unit
253	Congregate care facility	0.17	100%	0.17	dwelling	\$1,795.64	per dwelling unit
254	Assisted living	0.22	100%	0.22	bed	\$2,323.77	per bed
310	Hotel	0.61	75%	0.46	room	\$4,832.39	per room
320	Motel	0.47	75%	0.35	room	\$3,723.32	per room
420	Marina	0.19	100%	0.19	berth	\$2,006.90	per boat berth
430	Golf course	0.30	100%	0.30	acre	\$3,168.78	per acre
440	Adult cabaret	38.67	75%	29.00	1,000 sq ft	\$306.34	per square foot
441	Live Theater	0.02	75%	0.02	seat	\$158.44	per seat
443	Movie theater - no matinee	0.07	75%	0.05	seat	\$554.54	per seat
445	Multiplex movie theater	4.91	75%	3.68	1,000 sq ft	\$38.90	per square foot
492	Health/Fitness Club	3.53	75%	2.65	1,000 sq ft	\$27.96	per square foot
522	Middle/jr high school	1.21	75%	0.91	1,000 sq ft	\$9.59	per square foot
530	High School	0.97	75%	0.73	1,000 sq ft	\$7.68	per square foot
560	Church	0.55	75%	0.41	1,000 sq ft	\$4.36	per square foot
565	Day care center	12.34	100%	12.34	1,000 sq ft	\$130.34	per square foot
610	Hospital	0.93	75%	0.70	1,000 sq ft	\$7.37	per square foot
620	Nursing home	0.22	75%	0.17	bed	\$1,742.83	per bed
710	General Office	1.49	100%	1.49	1,000 sq ft	\$15.74	per square foot
720	Medical office	3.57	75%	2.68	1,000 sq ft	\$28.28	per square foot
730	Government office	1.21	100%	1.21	1,000 sq ft	\$12.78	per square foot
760	R&D center	1.07	100%	1.07	1,000 sq ft	\$11.30	per square foot
812	Building materials & lumber	4.49	75%	3.37	1,000 sq ft	\$35.57	per square foot
814	Specialty retail	6.82	66%	4.50	1,000 sq ft	\$47.54	per square foot
820	Shopping Center	3.71	66%	2.45	1,000 sq ft	\$25.86	per square foot
850	Supermarket	9.48	64%	6.07	1,000 sq ft	\$64.09	per square foot
851	Convenience market-24 hr	52.41	49%	25.68	1,000 sq ft	\$271.26	per square foot
890	Furniture store	0.45	47%	0.21	1,000 sq ft	\$2.23	per square foot
896	Video rental	13.60	50%	6.80	1,000 sq ft	\$71.83	per square foot
911	Walk-in Bank	12.13	71%	8.61	1,000 sq ft	\$90.97	per square foot
912	Drive-in Bank	24.30	65%	15.80	1,000 sq ft	\$166.84	per square foot
931	Restaurant - quality	7.49	56%	4.19	1,000 sq ft	\$44.30	per square foot
932	Restaurant: sit-down	9.85	57%	5.61	1,000 sq ft	\$59.30	per square foot
933	Fast food, no drive-up	26.15	50%	13.08	1,000 sq ft	\$138.11	per square foot
934	Fast food, w/ drive-up	32.65	50%	16.33	1,000 sq ft	\$172.43	per square foot
936	Coffee/Donut no drive-up	40.75	51%	20.78	1,000 sq ft	\$219.52	per square foot
937	Coffee/Donut w/ drive-up	40.75	51%	21.83	1,000 sq ft	\$230.56	per square foot
943	Auto parts & service center	4.46	57%	2.54	1,000 sq ft	\$26.85	per square foot

945	Gas station with convenience	13.51	44%	5.94	pump	\$62,788.38	per pump
947	Self-service car wash	5.54	44%	2.44	wash stall	\$25,747.42	per wash stall
948	Automated car wash	14.12	44%	6.21	1,000 sq ft	\$65.62	per square foot

1. ITE Trip Generation (9th Edition) (2012): 4-6 PM Peak Hour Trip Ends
2. Excludes pass-by trips: see "Trip Generation Handbook: An ITE Proposed Recommended Practice" (2014)
3. Pursuant to NBMC 17.38.110(B), an inflationary adjustment shall be made in the fee rates at the beginning of each calendar year. The annual inflationary adjustment shall be the same percentage amount as the change in the Engineering News Record Construction Cost Index for the Seattle area from the date of the previous year's adjustment.

Section 5. Amendment of Taxes, Rates and Fees Schedule. The Taxes, Rates and Fees Schedule of the City shall be amended to reflect a Transportation Impact Fee in the amount of \$10,562.61 per vehicle trip. The vehicle trip fee shall be applied to the vehicle trip table set forth in NBMC Section 17.38.120.

Section 6. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 6TH DAY OF OCTOBER, 2015.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Kenneth G. Hearing, Mayor

Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published: October 14, 2015
Effective: October 19, 2015

Susie Oppedal, City Clerk